



## TEXAS DEPARTMENT OF INSURANCE

### Division of Workers' Compensation - Medical Fee Dispute Resolution (MS-48)

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## MEDICAL FEE DISPUTE RESOLUTION FINDINGS AND DECISION

### GENERAL INFORMATION

**Requestor Name**

Linda Galvan, M.D.

**Respondent Name**

City of Houston

**MFDR Tracking Number**

M4-17-1391-01

**Carrier's Austin Representative**

Box Number 29

**MFDR Date Received**

January 13, 2017

### REQUESTOR'S POSITION SUMMARY

**Requestor's Position Summary:** "DESIGNATED DOCTOR EXAMINATION NO PAYMENT RECEIVED"

**Amount in Dispute:** \$2,115.00

### RESPONDENT'S POSITION SUMMARY

**Respondent's Position Summary:** "Due to the incorrect information on the bill in box 25 of the 1500 form and the non-match of the W9 provided the bills did not qualify as complete and accurate under TAC Rule Subchapter A. 133.2 pertaining to Medical Billing and Processing."

**Response Submitted by:** Injury Management Organization, Inc.

### SUMMARY OF FINDINGS

Dates of Service	Disputed Services	Amount In Dispute	Amount Due
September 9, 2016	Designated Doctor Examination (99456-W5-WP)	\$1,250.00	\$1,100.00
September 9, 2016	Multiple Impairments (99456-W5-MI)	\$100.00	\$100.00
September 9, 2016	Designated Doctor Examination (99456-W6-RE)	\$500.00	\$500.00
September 9, 2016	Designated Doctor Examination (99456-W8-RE)	\$250.00	\$250.00
September 9, 2016	Work Status Report (99080-73)	\$15.00	\$0.00

### FINDINGS AND DECISION

This medical fee dispute is decided pursuant to Texas Labor Code §413.031 and applicable rules of the Texas Department of Insurance, Division of Workers' Compensation.

**Background**

1. 28 Texas Administrative Code §133.307 sets out the procedures for resolving medical fee disputes.
2. 28 Texas Administrative Code §133.2 sets out definitions associated with bill processing.
3. 28 Texas Administrative Code §133.10 defines the requirements for a complete medical bill.
4. 28 Texas Administrative Code §133.200 sets out the procedures for receipt of a medical bill.

5. 28 Texas Administrative Code §133.240 sets out the procedures for payment or denial of a medical bill.
6. 28 Texas Administrative Code §134.235 sets out the fee guidelines for return to work and evaluation of medical care examinations.
7. 28 Texas Administrative Code §134.239 sets out the procedures for billing a work status report.
8. 28 Texas Administrative Code §134.250 sets out the fee guidelines for maximum medical improvement and impairment rating provided on or after September 1, 2016.
9. The information submitted to the division did not include an explanation of benefits provided to the requestor prior to the request for medical fee dispute resolution.

### Issues

1. What are the services in dispute?
2. Did City of Houston reject the submitted medical bill in accordance with 28 Texas Administrative Code §133.200?
3. Did City of Houston pay, reduce, or deny the disputed services in accordance with 28 Texas Administrative Code §133.240?
4. Is Linda Galvan, M.D. entitled to additional reimbursement?

### Findings

1. Linda Galvan, M.D. is seeking reimbursement of \$2,115.00 for a designated doctor examination that included the following:
  - Determination of maximum medical improvement and impairment rating, represented by procedure code 99456-W5-WP
  - Two additional impairments, represented by procedure code 99456-W5-MI
  - Determination of extent of the compensable injury, represented by procedure code 99456-W6-RE
  - Determination of the injured employee's ability to return to work, represented by procedure code 99456-W8-RE
  - A Work Status Report, represented by procedure code 99080-73

These are the services considered in this dispute.

2. Documentation submitted by Injury Management Organization, Inc., on behalf of City of Houston included a letter dated November 3, 2016, that states, "PLEASE MAKE NOTED CORRECTIONS AND RESUBMIT THE BILL AND SUPPORTING DOCUMENTATION TO THE INSURANCE CARRIER INCLUDING THIS REQUEST FORM ... Current W9 is required."

Upon receipt of the medical bill from Dr. Galvan, City of Houston is required to evaluate the bill for **completeness** (as defined by 28 Texas Administrative Code §133.2). 28 Texas Administrative Code §133.200(a) states:

- (1) Insurance carriers shall not return medical bills that are complete, unless the bill is a duplicate bill.
- (2) Within 30 days after the day it receives a medical bill that is not complete as defined in §133.2 of this chapter, an insurance carrier shall:
  - (A) complete the bill by adding missing information already known to the insurance carrier, except for the following:
    - (i) dates of service;
    - (ii) procedure/modifier codes;
    - (iii) number of units; and
    - (iv) charges; or
  - (B) return the bill to the sender, in accordance with subsection (c) of this section.
- (3) The insurance carrier may contact the sender to obtain the information necessary to make the bill complete, including the information specified in paragraph (2)(A)(i) - (iv) of this subsection. If the

insurance carrier obtains the missing information and completes the bill, the insurance carrier shall document the name and telephone number of the person who supplied the information.

28 Texas Administrative Code §133.2(4) defines a complete medical bill as one that “contains all required fields as set forth in the billing instructions for the appropriate form specified in §133.10...” Review of the submitted documentation finds that the medical bill in question was complete. The division finds that the reasons set forth in the rejection letter were not in accordance with 28 Texas Administrative Code §133.200.

3. Documentation submitted to the division supports that a medical bill was received by City of Houston on or about October 3, 2016; October 7, 2016; November 16, 2016; November 17, 2016; and December 7, 2016. 28 Texas Administrative Code §133.240(a) requires City of Houston to take **final action** by issuing an explanation of benefits not later than 45 days after receipt of a complete medical bill. 28 Texas Administrative Code §133.2(6) defines final action as follows:

Final action on a medical bill—

- (A) sending a payment that makes the total reimbursement for that bill a fair and reasonable reimbursement in accordance with §134.1 of this title (relating to Medical Reimbursement); and/or
- (B) denying a charge on the medical bill.

Documents submitted to the division do not support that City of Houston took final action to pay, reduce, or deny the medical bill in question. City of Houston failed to raise any defenses as required in accordance with 28 Texas Administrative Code §133.240. This creates a waiver of the defenses raised in its response to medical fee dispute resolution under 28 Texas Administrative Code §133.307(d)(2)(F), which states:

The response shall address only those denial reasons presented to the requestor prior to the date the request for MFDR was filed with the division and the other party. Any new denial reasons or defenses raised shall not be considered in the review...

The division concludes that the defenses presented in City of Houston’s position statement shall not be considered for review because those assertions constitute new defenses pursuant to 28 Texas Administrative Code §133.307(d)(2)(F).

4. Per 28 Texas Administrative Code §134.250(3), “The following applies for billing and reimbursement of an MMI evaluation... (C) An examining doctor, other than the treating doctor, shall bill using CPT Code 99456. Reimbursement shall be \$350.” The submitted documentation supports that Dr. Galvan performed an evaluation of Maximum Medical Improvement. Therefore, the maximum allowable reimbursement (MAR) for this examination is \$350.00.

28 Texas Administrative Code §134.250(4) states:

(C) For musculoskeletal body areas, the examining doctor may bill for a maximum of three body areas.

(i) Musculoskeletal body areas are defined as follows:

- (I) spine and pelvis;
- (II) upper extremities and hands; and,
- (III) lower extremities (including feet).

(ii) The MAR for musculoskeletal body areas shall be as follows.

- (I) \$150 for each body area if the Diagnosis Related Estimates (DRE) method found in the AMA Guides 4th edition is used.
- (II) If full physical evaluation, with range of motion, is performed:
  - (-a-) \$300 for the first musculoskeletal body area; and
  - (-b-) \$150 for each additional musculoskeletal body area.

(D) ...

(i) Non-musculoskeletal body areas are defined as follows:

- (I) body systems;
- (II) body structures (including skin); and,
- (III) mental and behavioral disorders.

(ii) For a complete list of body system and body structure non-musculoskeletal body areas, refer to the appropriate AMA Guides...

(v) The MAR for the assignment of an IR in a non-musculoskeletal body area shall be \$150.

Review of the submitted documentation finds that Dr. Galvan performed impairment rating evaluations of bronchospasm due to smoke inhalation, headache due to inhalation, elevated total bilirubin, hypertension, and stroke. The MAR for this examination is calculated as follows:

Examination	AMA Chapter	§134.250 Category	Reimbursement Amount
Maximum Medical Improvement			\$350.00
IR: Brochospasm	Respiratory System	Body Systems	\$150.00
IR: Headache	Pain	Body Systems	\$150.00
IR: Elevated Bilirubin	Digestive System	Body Systems	\$150.00
IR: Hypertension	Cardiovascular System	Body Systems	\$150.00
IR: Stroke	Nervous System	Body Systems	\$150.00
<b>Total MMI</b>			<b>\$350.00</b>
<b>Total IR</b>			<b>\$750.00</b>
<b>Total Exam</b>			<b>\$1,100.00</b>

28 Texas Administrative Code §134.250(4)(B) states,

When multiple IRs are required as a component of a designated doctor examination under this title, the designated doctor shall bill for the number of body areas rated and be reimbursed \$50 for each additional IR calculation. Modifier "MI" shall be added to the MMI evaluation CPT code.

The submitted documentation indicates that Dr. Galvan was ordered to address maximum medical improvement, impairment rating, and extent of injury. The narrative report and enclosed forms support that these examinations were performed, and two additional impairment ratings were provided. Therefore, the MAR for this service is \$100.00.

Per 28 Texas Administrative Code §134.235,

The following shall apply to return to work (RTW)/evaluation of medical care (EMC) examinations. When conducting a division or insurance carrier requested RTW/EMC examination, the examining doctor shall bill and be reimbursed using CPT code 99456 with modifier "RE." In either instance of whether maximum medical improvement/ impairment rating (MMI/IR) is performed or not, the reimbursement shall be \$500 in accordance with §134.240 of this title and shall include division-required reports. Testing that is required shall be billed using the appropriate CPT codes and reimbursed in addition to the examination fee.

Further, 28 Texas Administrative Code §134.240(2) states,

When multiple examinations under the same specific division order are performed concurrently under paragraph (1)(C) - (F) of this section:

- (A) the first examination shall be reimbursed at 100 percent of the set fee outlined in §134.235 of this title;
- (B) the second examination shall be reimbursed at 50 percent of the set fee outlined in §134.235 of this title; and
- (C) subsequent examinations shall be reimbursed at 25 percent of the set fee outlined in §134.235 of this title.

The submitted documentation indicates that Dr. Galvan performed examinations to determine the extent of the compensable injury and the ability of the injured worker to return to work, as ordered by the division. Therefore, the correct MAR for these examinations is \$750.00.

Per 28 Texas Administrative Code §134.239, "When billing for a work status report that is not conducted as a part of the examinations outlined in §134.240 and §134.250 of this title, refer to §129.5 of this title."

Therefore, the filing of the DWC-073 is not separately payable when provided in conjunction with a

designated doctor examination performed according to 28 Texas Administrative Code §§134.240 and 134.250.

The total MAR for the disputed services is \$1,950.00. This amount is recommended.

**Conclusion**

For the reasons stated above, the Division finds that the requestor has established that additional reimbursement is due. As a result, the amount ordered is \$1,950.00.

***ORDER***

Based on the submitted information, pursuant to Texas Labor Code Sec. 413.031 and 413.019 (if applicable), the Division has determined that the requestor is entitled to additional reimbursement for the services in dispute. The Division hereby ORDERS the respondent to remit to the requestor the amount of \$1,950.00, plus applicable accrued interest per 28 Texas Administrative Code §134.130, due within 30 days of receipt of this Order.

**Authorized Signature**

_____	Laurie Garnes	March 3, 2017
Signature	Medical Fee Dispute Resolution Officer	Date

***YOUR RIGHT TO APPEAL***

Either party to this medical fee dispute has a right to seek review of this decision in accordance with 28 Texas Administrative Code §133.307, 37 *Texas Register* 3833, applicable to disputes filed on or after June 1, 2012.

A party seeking review must submit a **Request to Schedule a Benefit Review Conference to Appeal a Medical Fee Dispute Decision** (form **DWC045M**) in accordance with the instructions on the form. The request must be received by the Division within **twenty** days of your receipt of this decision. The request may be faxed, mailed or personally delivered to the Division using the contact information listed on the form or to the field office handling the claim.

The party seeking review of the MFDR decision shall deliver a copy of the request to all other parties involved in the dispute at the same time the request is filed with the Division. **Please include a copy of the *Medical Fee Dispute Resolution Findings and Decision*** together with any other required information specified in 28 Texas Administrative Code §141.1(d).

**Si prefiere hablar con una persona en español acerca de ésta correspondencia, favor de llamar a 512-804-4812.**